

REMARKS

Claims 1-3, 18-20, and 36-67 were presented for examination, of which claims 1, 18, 38, and 39 are withdrawn from consideration. In an Office Action dated August 4, 2009, claims 2, 3, 19, 20, 36, 37 and 40-67 were rejected. Applicants thank Examiner for examination of the claims pending in this application and addresses Examiner's comments below.

In view of the Remarks that follow, Applicants respectfully request that Examiner reconsider all outstanding rejections, and withdraw them.

Interview Summary

On October 29, 2009, Applicants' representatives, Pauline Farmer-Koppenol and Brian Hoffman, conducted an interview with Examiner Robinson. The rejection under 35 USC §103(a) of claim 36 and the Pingali, Kaler and Zakharov references were discussed. The Examiner indicated she would review the references again in view of Applicants' arguments. No specific agreements were reached.

Response to Rejection Under 35 USC §103(a)

Examiner rejected claims 2, 3, 19, 20, 36, 37, 40-67 under 35 USC §103(a) as allegedly being unpatentable over Pingali et al. (Instantly Indexed Multimedia Databases of Real World Events) ("Pingali") in view of Zakharov et al. (U.S. Publication No. 2002/0059245) ("Zakharov") and Kaler et al. (U.S. Patent No. 6,708,293) ("Kaler"). This rejection is traversed.

Claim 36 recites (in part):

monitoring at least one application for occurrences of events wherein at least one event is associated with a media file;

capturing the at least one event upon the occurrence of the event by queuing event data associated with the event at a position in a queue;
indexing and storing at least some of the event data and the media file associated with the event **at a time after the occurrence of the event**, wherein the time is based on **performance data indicating a readiness** to process the event and the position in the queue;...

Thus claim 36 recites indexing and storing at least some of the event data at a time after the occurrence of the event. The time at which the indexing occurs is based on performance data indicating a readiness to process the event and the position in the queue.

Pingali, to the contrary, does not disclose or suggest queuing event data in a queue or indexing at a time after the occurrence of the event. Rather, the entire disclosure of Pingali describes how Pingali's system indexes events immediately upon the occurrence of the event. For example, the title of the article is "Instantly Indexed Multimedia Databases of Real World Events" which demonstrates that the point of Pingali's method is that the indexing happens instantly, rather than at a time after the occurrence of the event. The Abstract of Pingali similarly states that Pingali introduces:

a new paradigm for real-time conversion of a real world event into a rich multimedia database by processing data from multiple sensors observing events. Real-time analysis of the sensor data tightly coupled with domain knowledge, results in instant indexing of multimedia data *at capture time*." (emphasis original)

Further, the last sentence of the first full paragraph of page 270 states, "We propose a different approach—**instantly** indexing multi-media **during** capture to convert a real world event into a digital library in real time." (emphasis added)

Given the nature of Pingali's system, the reference does not disclose or suggest queuing event data in a queue or indexing the event data **at a time after the occurrence of**

the event, as claimed. The Examiner provides a variety of citations to Pingali to justify the rejection, but none of the cited portions discloses or suggests these claim limitations. Data selection in Section VII A on p. 275, Activity map based indexing on page 279 and sections II and III on pages 270-271 are identified by the Examiner as disclosing “indexing and storing at least some of the event data and the media file associated with the event at a time after the occurrence of the event, wherein the time is based on performance data indicating a readiness to process the event and the position in the queue.”

The data selection in Section VII A on p. 275 of Pingali describes how queries are created in order to present, to the user, a virtual version of the event. The queries can be based on a specific window of time in the tennis match, a score, statistics, geographic space, etc. All of this however refers to queries to retrieve data that have already been indexed. It does not describe the indexing process and therefore, certainly does not disclose that the events and associated event data are indexed based on performance data.

Activity map-based indexing, described on page 279 of Pingali, describes the events of a tennis match being indexed in such a way that activity maps can be generated by the user using the data selection described earlier in Pingali. This portion of Pingali also does not disclose that the time at which the events are indexed is based on performance data indicating readiness to index the events.

Sections II and III on pages 270-271 of Pingali describe how the method disclosed in Pingali indexes video by analyzing the activity of the scene captured by the video. The passage goes on to describe the architecture used to implement the method. Nowhere does it mention that the events to be indexed are in a queue and then indexed based on performance data. To the contrary, the first paragraph of Section II of Pingali reiterates the emphasis on

instant indexing. The last sentence of the paragraph states “We propose a different approach – **instantly** indexing multi-media data **during** capture to convert a real world event into a digital library in **real time**” (emphasis added).

Therefore Pingali does not disclose, “indexing and storing at least some of the event data and the media file associated with the event at a time after the occurrence of the event, wherein the time is based on performance data indicating a readiness to process the event and the position in the queue.”

In fact, Pingali teaches away from the claimed method. The focus of Pingali is on real-time indexing, i.e. indexing at the time of capturing event data. Pingali frequently emphasizes the real-time indexing through the use of italics. *See, e.g.*, Pingali at Par. 1 of Abstract and Par. 1 of Introduction. The purpose of Pingali’s system is to allow viewers of sporting events to watch virtual replays and analysis as quickly as possible as the event is ongoing. Pingali at Par. 2 of Abstract. Therefore, a person of ordinary skill in the art confronted with Pingali would not be led to using a queue to index at a time after the occurrence of the event, as claimed.

Zakharov does not remedy the deficiencies of Pingali. Zakharov discloses a queue for holding file information that is used to transfer files stored in a spool directory to file receiver systems. Zakharov at [0041]. Zakharov does not however describe the conditions under which the file information is removed from the queue. Therefore there is no teaching in Zakharov regarding using performance data or other factors to indicate a readiness to process events in a queue. Therefore Zakharov does not disclose “indexing and storing at least some of the event data and the media file associated with the event at a time after the

occurrence of the event, wherein the time is based on performance data indicating a readiness to process the event and the position in the queue.”

Kaler also does not remedy the deficiencies of Pingali. Kaler discloses analyzing performance of a data processing system but does not relate the performance data to processing events in a queue. In fact, Kaler does not mention queues at all. Therefore Kaler does not disclose “indexing and storing at least some of the event data and the media file associated with the event at a time after the occurrence of the event, wherein the time is based on performance data indicating a readiness to process the event and the position in the queue.”

Accordingly, the cited references do not teach or suggest every limitation of independent claim 36. Therefore, a person of ordinary skill in the art considering the references in combination would not find the claimed invention obvious. Further, a person of ordinary skill in the art would not be motivated to combine Pingali with Kaler and Zakharov to arrive at the claimed invention because Pingali teaches away from queuing events to be indexed and indexing at a time after occurrence of the event.

Independent claim 37 is not obvious for at least the same reasons. The dependent claims incorporate the elements of their base claims, and are likewise not obvious in view of the references.

Applicants respectfully submit that for at least these reasons claims 2, 3, 19, 20, 36, 37, 40-67 are patentably distinguishable over the cited references, both alone and in combination. Therefore, Applicants respectfully request that Examiner reconsider the rejection, and withdraw it.

Conclusion

In sum, Applicants respectfully submit that all claims now pending are patentable over the cited references for at least the reasons given above. Applicants request reconsideration of the basis for the rejections of these claims and request allowance of them.

Respectfully Submitted,

Date: 3 December 2009

By: /Pauline Farmer-Koppenol/

Pauline Farmer-Koppenol, Attorney of Record
Registration No. 58,004
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Phone (650) 335-7181
Fax (650) 938-5200
Email: pfarmer@fenwick.com